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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/586,381 | 06/02/2000 | David E. Green | 2130 | 7037 |

25280 7590 08/18/2003

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EXAMINER

WACHTEL, ALEXIS A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 1764 | |

1764

DATE MAILED: 08/18/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1764

D tailed Action

1. Applicant's amendment and accompanying Remarks filed 5-20-2003 have been entered and carefully considered.

The amendment is sufficient to overcome the 112 1st and 112 2nd paragraph rejections of claims 1-10, 15-24 due to Applicant's amendment. Claims 1-10, 15-24 are cancelled without prejudice. Claims 29-48 were added for consideration.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 29-48 rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,849,311 to Sawan et al in view of US 5,432,000 to Young, Sr. et al.

Sawan et al disclose a contact-killing coating on a substrate (Col 4, lines 21-26) wherein the biocidal material used is of a metallic material, wherein the metallic material can be a metal, metal oxide, metal salt, metal complex, metal alloy or mixture (Col 3, lines 47-52). Metals that can be used include silver, zinc, cadmium, lead, mercury, antimony, gold, aluminum, copper, platinum and palladium, their salts, oxides, complexes, and alloys. (Col 3, lines 47-60). Said metallic material is in particulate form that is dispersed in an emulsion (Col 4, lines 1-5). The emulsion or suspension includes a crosslinking agent (Col 4, lines 5-17) which together with the emulsion broadly

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constitutes a binder. Said contact-killing coating can be used on wound dressing, personal hygiene products, household products, food preparation surfaces and packaging, water storage, treatment and delivery systems, biosensitive systems lab equipment (Col 12, lines 32-40) as well as surgical gloves (Col 1, line 67).

Conventionally, wound dressings are woven or nonwoven, food packaging materials and surgical gloves are films and personal hygiene products such as diapers have non woven materials as well as film layers that could be coated with said contact-killing coating. Inherently, if contact-killing coating is applied to a woven or nonwoven, at least some yarns or fibers will be coated completely.

Sawan et al fail to teach the use of a binder having the claimed properties. Young teaches that binders having good intermolecular contact between the binder and particles are especially desirable. (Col 11, lines 19-21). Young discloses that such desirable binders used in emulsion form include polyesters, polyimides, melamine/formaldehyde, epoxy and other binder materials (Col 9, lines 35-67, Col 10, lines 1-19). In view of this teaching it would have been obvious to one of ordinary skill to have used any of the binders disclosed by Young instead of the binder disclosed by Sawan et al since the binders disclosed by Young are equivalently useful and are more available or cost effective.

Although Sawan et al and Young fail to explicitly teach the claimed percentage of biocidal coating integrally retained on substrate after the claimed number of washes, claimed log kill rate, or that the binder material used is susceptible to attack by a standard laundering additive selected from the group constituting of detergents,

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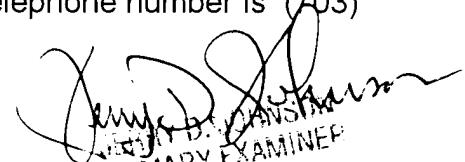
solvents, bleaches or mixtures thereof and is not susceptible to degradation due to exposure to exposure to high temperatures associated with standard laundry drying temperatures, it is reasonable to presume that said limitations are inherent to the invention. Support for said presumption is found in the use of similar materials (i.e. metallic biocidal suspension or binder applied to a substrate) and in the similar production steps (i.e. coating said biocidal binder to a substrate) used to produce the biocidal coated substrate. The burden is upon the Applicant to prove otherwise.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Alex Wachtel, whose number is (703)-306-0320. The Examiner can normally be reached Mondays-Fridays from 10:30am to 6:30pm.

If attempts to reach the Examiner by telephone are unsuccessful and the matter is urgent, the Examiner's supervisor, Mr. Glenn Caldarola can be reached at (703) 308-6824. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)


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